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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/621,013

07/17/2003

Michael Francis Niemi

9115

7590 10/09/2007
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EXAMINER

YODER III, CHRISS S

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/621,013	Applicant(s) NIEMI, MICHAEL FRANCIS	
	Examiner Chriss S. Yoder, III	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed November 5, 2003 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

Specification

Page 1:

line 4 – Microsoft CE device

line 5 – radiation, heat, UV, and smoke detection

line 6 – a GPS device and mapping

line 11 – a round robin of reading the sensors

line 14 – presenting all of the data at one time

line 16 – devoting a portion of the PDA's screen to the camera

line 21 – heat sensor

Page 2:

lines 1-4 – heat sensor displaying any heat source in degrees,
Geiger Mueller Tube, DC to DC adapter, 300 volt capacitor, reading Alpha
and Gamma radioactive hot spots, GPS module, GPS software on the
PDA, and mapping software for non-GPS equipped sensors

line 17 – Palm OS Notepad

Claims

Claim III, line 2 – software maps

Claim V, line 3 – judging distance vs. speed

Claim VI, line 2 – an EMR (emergency first responder person)

Abstract

line 3 – sensing radiation and heat

line 5 – Notepad (amended from “Graffiti”)

Drawings

Figure 1d – Geiger Mueller and GPS

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims V - VI are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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In regard to claim V, note a description of the "PDA programming of distance vs. speed" in line 3 is found in the specification.

In regard to claim V, note a description of an "EMR (emergency first responder person)" in line 2 is not found in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims I, III, and IV are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

3. Claims I - VI are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim I, the limitation "I claim the device the device, properly powered and equipped, can be used as a portable" is recited in line 1. There is insufficient antecedent basis for this limitation in the claim. The Examiner believes this should read, "I claim a scanning apparatus, the scanning apparatus, when properly powered

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and equipped, can be used as a portable". As such, for the purposes of Examination, claim I will be examined as understood by the Examiner.

Regarding claims III and IV, the phrase "etc." renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by " etc."), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). As such, for the purposes of Examination, these claims will be examined without the phrase "etc."

Regarding claims IV and V, the limitation "outfitted with the PDA camera and IR ranger" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. The Examiner believes this should be changed to read, "outfitted with a PDA camera and IR ranger". As such, for the purposes of Examination, claim I will be examined as understood by the Examiner.

Regarding claims II - VI, the limitation "the device" is recited in line 1 of each claim. If claim 1 is examined as interpreted by the Examiner above ("I claim a scanning apparatus, the scanning apparatus, when properly powered and equipped, can be used as a portable"), then there is insufficient antecedent basis for this limitation in the claims. The Examiner believes this limitation should be changed to read, "the scanning apparatus". As such, for the purposes of Examination, claim I will be examined as understood by the Examiner.

Claim Objections

4. Claims IV - VI are objected to because of the following informalities:

Claim IV is listed twice. The second of which is considered to be misnumbered, therefore, the second "claim IV" should be renumbered as claim V.

Each of claims IV – VI recites, "I clam", in line 1. The Examiner believes this should recite, "I claim".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The Examiner notes, that the phase "can be used" throughout the claims, broadens the scope of the claims. If a limitation is written with "can be used..." language, a reference is deemed to meet that limitation if the reference discusses the same element that, although not actually performing the claimed function, is **structurally capable** of performing it.

5. Claims I-III and VI are rejected under 35 U.S.C. 102(e) as being anticipated by Monroe (US Patent # 6,518,881).

6. In regard to **claim I**, note Monroe discloses the use of a scanning apparatus, the scanning apparatus, when properly powered and equipped, *can be used* as a portable data recorder and to provide data as an on screen alert, and/or to be saved for analysis after some kind of event or threat has been averted or detected (column 8, lines 17-67, and figure 2).

7. In regard to **claim II**, note Monroe discloses that the scanning apparatus *can be used* as a personal documentation device in hazardous situations or other conditions, where a hidden radioactive source, smoke, or heat masked by smoke or other material may obscure the danger from the user (column 9, lines 21-33).

8. In regard to **claim III**, note Monroe discloses that the scanning apparatus *can be used* to determine the location of the user of the device when properly outfitted with the electronic compass and software maps, giving the user a bearing, the time, and if equipped with a camera, the means to photograph anything around the user (column 9, lines 46-52).

9. In regard to **claim VI**, note Monroe discloses that the scanning apparatus, when properly outfitted with the Heat Sensor and IR Ranger can visually warn an EMR (emergency first responder person) of danger of a fire or wall or other obstruction when obscured by smoke (column 9, lines 21-33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim IV is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe (US Patent # 6,518,881) in view of Pico (US PGPub 2003/0090568).

11. In regard to **claim IV**, note Monroe discloses that the scanning apparatus, when properly outfitted with a PDA camera, can take pictures at any interval with time and date stamp (column 6, lines 41-46, column 7, lines 3-12, and column 7, lines 50-56).

Therefore, it can be seen that Monroe lacks the use of an IR ranger to record movement via the IR Ranger of a certain object at any preprogrammed distance. Pico discloses the use of an IR ranger to determine object distances (paragraph 0012). Pico teaches that the use of IR ranger is preferred so that object distances are recorded for scene recreation, thereby providing users with accurate distance measurements during playback (paragraph 0012). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Monroe device to include the use of an IR ranger to determine object distances in order to providing users with accurate distance measurements during playback, as suggested by Pico.

12. Claim V is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroe (US Patent # 6,518,881) in view of Halsted et al. (US Patent # 6,470,273).

13. In regard to **claim V**, note Monroe discloses that the scanning apparatus, when properly outfitted with a PDA camera and properly wired to a vehicles internal electrical system, can take pictures automatically of a vehicle (column 7, line 64 – column 8, line

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3 and column 8, lines 57-67). Therefore, it can be seen that the Monroe device lacks the use of an IR Ranger along with PDA programming of distance vs. speed to judge a hazard of imminent collision with the front and back of the so-equipped vehicle. Halsted discloses the use of an IR ranger to judge a hazard of imminent collision with the front and back of the so-equipped vehicle based on distance vs. speed (column 5, lines 44-60). Halsted teaches that the use of an IR ranger to judge a hazard of imminent collision with the front and back of the so-equipped vehicle based on distance vs. speed is preferred in order to distinguish approaching vehicles from changes in the roadway, and issue a warning of impending dangers (column 5, lines 44-60). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Monroe device to include the use of an IR ranger to judge a hazard of imminent collision with the front and back of the so-equipped vehicle based on distance vs. speed in order to distinguish approaching vehicles from changes in the roadway, and issue a warning of impending dangers, as suggested by Halsted.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US004843463: note the use of a vehicle surveillance/recording system.

US006580450B1: note the use of a vehicle surveillance/recording system.

US 20070030351A1: note the use of a vehicle surveillance/recording system.

US 20030201875A1: note the use of a vehicle surveillance/recording system.

US005335072A : note the use of a camera storing additional information pertaining to the captured image.

US 20030065428A1: note the use of an early warning system.

US006842652B2: note the use of a camera instertable in a PDA.

US006535242B1: note the use of a vehicle surveillance/recording system

US 20020050932A1: note the use of an environment hazard/warning system.

US 20030025793A1: note the use of a vehicle surveillance/recording system

US006642840B2: note the use of a vehicle surveillance/recording system

US 20010001561A1: note the use of a portable monitoring device.

US006831699B2: note the use of a portable monitoring device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chriss S. Yoder, III whose telephone number is (571) 272-7323. The examiner can normally be reached on M-F: 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSY
September 25, 2007



LIN YE
SUPERVISORY PATENT EXAMINER